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October 8, 2015

To: Chairman Nofs and the Honorable Members of the Michigan Senate Energy and Technology Committee

RE: Senate Bill 437 S-1; Testimony in Opposition; Comments

As written, SB 437 s-1 leaves too many questions unanswered. It gives utilities too much influence over the integrated resource planning (IRP) process, and creates an extremely challenging framework for regulators. The framework, as outlined, leaves open the real possibility of utility and special interest domination state energy planning – costing ratepayers' money and shortchanging the environment. The plan does not provide sufficient policy guidelines to inspire confidence that Michigan will continue to pursue energy efficiency and other demand side resources that are ratepayers' cleanest, cheapest, and most quickly deployed source of energy.

WMEAC strongly supports Robust Integrated Resource planning, but sufficient safeguards must be in place to protect ratepayers and the environment. For these reasons WMEAC must oppose SB 437 as written.

1. SB 437 "punts" on major policy decisions

Without clear mandates from the legislature, effectively, the Michigan Public Service Commission (MPSC) will be setting critical energy policy for the State of Michigan for the foreseeable future. Major energy policy questions including, but not limited to, the diversity of Michigan's energy portfolio, the quantity and quality of our renewable energy, energy waste reduction, and risk mitigation have been "punted" to the MPSC.

Appropriately, the legislation directs the MPSC to establish many of the details and rules of integrated resources planning. However, major policy decision and very critical language – the heart and soul of a robust IRP – is only outlined in broad strokes. Three examples are included here:

A. For example, in Sec. 6s (5) (E) only a few, very broad objectives are outlined for the MPSC to deem a utility proposed IRP as "the most reasonable and prudent."

An IRP is then deemed most reasonable and prudent if all of the following are balanced:

- I. Resource adequacy and capacity..
- II. State and federal environmental regulations
- III. Competitive pricing,
- IV. Reliability
- V. Commodity price risks.
- VI. Diversity of generation supply

B. In another example in Sec. 6s (E) (IV) we see that major energy waste reduction policy questions relegated to utility modelling scenarios established by the MPSC: "the Commission is directed to establish modeling scenarios and assumptions each utility must use in developing its IRP including.... IV. "supply-side and demand-side resources that could address any need for additional generation capacity, including, but not limited to, the type of generation technology for any proposed generation facility, projected efficiency savings, and projected load management and demand response savings."





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C. In Section 6s (H) (3) the bill seems to provide almost no policy guidance whatsoever for smaller, regulated Electric utilities with fewer than 1,000,000 customers: "The Commission may issue an order implementing separate filing requirements, review criteria, and approval standards that differ from those under subsection 2."

2. SB 437 will be an extreme regulatory challenge.

This legislation tasks the MPSC with a vast array of new responsibilities – many of which will be contested by design or constantly informally challenged given the flexibility and ambiguity of the statute. Language this broad, without critical mandates and clear policy objectives, will demand an extremely well-resourced, well-manned, highly-competent, Michigan Public Service Commission.

Which raises several important questions:

How many additional Public Service Commission staff will be hired to thoroughly review IRP's this broad and flexible?

What additional analytical tools will be necessary?

What is the budget necessary for staff? Where will the funding come from?

Does Michigan have sufficient analytical expertise to properly staff a newly fortified Public Service Commission, or, will contractors and

WMEAC strongly supports **robust and fair** integrated resource planning, but without strong mandates and clear goals from the legislature - additional staff, capacity, and resources will be needed to adequately review utility crafted IRP's in the manner and timeline established by the proposed language.

3. Sb 437 puts too much authority in the hands of investor owned utilities; insiders

Given the many new responsibilities and aggressive timelines the MSPC will be facing, one worries that policy decision-making will shift, by default, to the utilities. When compared with consumer advocates, low-income representatives, environmental groups, and even state of Michigan staff, utilities will have more resources, more legal and financial staff, and much more information to design IRP's stacked in their favor.

Just a few examples:

A. Sec. 6s (4) The bill does not allow for demand side resources to compete with generating capacity resources on price: Utility RFP's that establish "competitive" prices "shall not include proposals for demand side resources." And the "utility is not required to accept any proposals submitted in response to its request for proposals."

B. P. 29 Section 6s (2) appears to undo the need for a Michigan-specific IRP at all, if a utility has an approved IRP from another state. Given the different policy goals, regulatory requirements, supply and demand needs of other states, this provision could undermine, or at the least complicate, MPSC's regulatory authority.

"If an electric utility has filed a multi-state IRP that includes its service area in this state with the relevant utility regulatory commission in another state in which it provides tariff service to retail customers, The Commission shall accept that IRP in this state. However, the commission may require supplemental information if necessary as part of its evaluation and determination of whether or not to approve the plan."





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C. A provision in Sec. 6s (4) exemplifies and exacerbates this by making "certain proprietary information be exempt from public disclosure as allowed by the Commission."

D. In Sec. 6s(7) essentially doubles the profit on the electric resource. The supplier already has profit margin built into the resource cost. The utility would be simply adding its profit margin on top. Purchased power is a 'pass-through' cost to ratepayers. Allowing a 'rate of return' does not make sense in this case.

4. Strong Renewable Energy and Energy Efficiency Standards are needed to protect ratepayers; diversify Michigan's energy portfolio, and mitigate risk

Both the regulatory burden and the uneven playing field created by SB 437 could be balanced with strong policy directives from the legislature. An IRP that integrates a continued 1.5 % annual renewable energy standards, and a 1.5% annual energy efficiency standard would accomplish just that. These provisions would guarantee continued ratepayer savings through the elimination of energy waste, and a state energy mix that continues to diversify.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Occhipinti', written over a horizontal line.

Nicholas Occhipinti
WMEAC Policy Director



